

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That *Kokia cookei* is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that *Kokia cookei* (Cooke's kokio) is an Endangered species. This plant has been extirpated from the wild in its native range on the island of Molokai, Hawaii and now survives as a single specimen in an arboretum. The disappearance of the wild population of this species was due to destruction of its native habitat by the activities of domestic livestock. The present action will afford this species the protection provided by the Endangered Species Act of 1973, as amended.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John L. Spinks, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 703/235-2771.

SUPPLEMENTARY INFORMATION:**Background**

The precise original range of *Kokia cookei* (Cooke's kokio) is unknown, but it was presumably a constituent of open lowland dry forest or scrub vegetation on western Molokai, County of Maui, Hawaii. Extensive habitat modification brought about principally by the activities of grazing animals resulted in its reduction to a single specimen in the early part of this century. Repeated attempts at propagating *K. cookei* have met with very limited success, so that at the present time the species is again represented by a single specimen, this one growing in an arboretum on the island of Oahu. In addition, tissue culture material of this species is maintained in a laboratory in Japan. The genus *Kokia* is confined to the Hawaiian islands and is related to *Gossypium*, which includes the cultivated cottons.

Section 12 of the Endangered Species Act of 1973 (hereinafter, the Act) directed the Secretary of the Smithsonian Institution to conduct a review of species of plants which were then or might become Endangered or Threatened according to the criteria set forth in the Act. That review led to the publication of House Document 94-51, Report on Endangered and Threatened Plant Species of the United States, which included a list of those plant species of the United States considered

by the Smithsonian Institution to qualify for Endangered or Threatened status as defined in the Act. That report was accepted by the Service as a petition within the context of the Act, and was the principal basis for a notice published by the Service in the **Federal Register** of July 1, 1975 (40 FR 27824-27924), indicating that over 3000 plant taxa were being considered by the Service for listing as Endangered or Threatened.

Subsequently, in the June 16, 1976 **Federal Register** (41 FR 24524-24572), the Service published a proposal advising that sufficient evidence was then on file to support determinations that 1783 plant taxa were Endangered species as defined by the Act. That proposal indicated that each of the included taxa was in danger of extinction over all or a significant portion of its range because of one or more of the factors set forth in Section 4(a) of the Act as appropriate grounds for a determination of Endangered status; specified prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections, and factual information from all interested persons. A public hearing regarding the proposal was held on July 14, 1976, in Honolulu, Hawaii. Notification of the proposal and a solicitation for comments or suggestions were sent on July 1, 1976, to the Governor of Hawaii and other interested parties. *Kokia cookei* was among the taxa included in House Document 94-51, the July 1, 1975 notice, and the June 16, 1976 proposal.

In the June 24, 1977 **Federal Register**, the Service published a final rule (43 FR 32373-32381, to be codified at 50 CFR, Part 17) detailing regulations to protect Endangered and Threatened plant species. The rule established prohibitions and a permit procedure to grant exemptions to the prohibitions under certain circumstances.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

Summary of Comments and Recommendations

Section 4(b)(1)(c) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any resident species of wildlife to the list of Endangered and Threatened Wildlife. In keeping with the spirit of this requirement, such a summary is also included in any final rule listing a plant species as Endangered or Threatened.

All comments received during the period from June 16, 1976 to October 1, 1979 were considered in formulating the present final rule. Most comments did not address themselves to particular plant taxa, but rather expressed general points of view regarding plant conservation. Such general comments were summarized in the **Federal Register** of April 26, 1978 (43 FR 17910-17916).

The State of Hawaii provided a list of species it considered to qualify for Endangered status in the state. *Kokia cookei* was included in the list provided by the State. No other comments were received that specifically addressed this species.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Kokia cookei* Degener (Cooke's kokio) is in danger of becoming extinct throughout all of its range due to the factors described in Section 4(a) of the Act, as amplified below.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The native habitat of *Kokia cookei* has been extensively modified, principally as a result of the activity of introduced cattle. Native Hawaiian vegetation is not adapted to the pressure of grazing by large herbivorous mammals and is extremely sensitive to such disturbance. Weedy exotic plants such as *Lantana camara* L., various species of *Stachytarpheta*, *Mimosa pudica* L. and various grasses, which are more resistant to grazing, have become the dominant vegetation in many of the drier parts of the state.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* The bark of another species of *Kokia* was the source of a dye formerly used on fishnets. Similar use of *K. cookei* may have contributed to its decline, but this has not been confirmed.

3. *Disease or predation.* Livestock are reported to have eaten both leaves and bark of this species in the wild. Its rate of reproduction may have been reduced by insect larvae, which reportedly ate a large proportion of the seeds produced by the plants on Molokai.

4. *The inadequacy of regulatory mechanisms.* This species has never before been subjected to protective regulation.

5. *Other natural or manmade factors affecting its continued survival.* The showy red flowers of *Kokia* species may be adapted to pollination by birds.

Hawaiian honeycreepers, the principal native nectar-feeding birds, are presently extirpated in the native range of *Kokia cookei*, and this may have contributed to its decline. Seed set and seed viability have been low in cultivated specimens of this species, possibly as a result of repeated inbreeding and concomitant loss of genetic variability.

Effect of the Rulemaking

Section 7(a) of the Act, as amended, provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for interagency cooperation were published on January 4, 1978, in the Federal Register (43 FR 870-876) and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7(a) of the Act. The present rule requires Federal agencies to satisfy these statutory and regulatory obligations with respect to *Kokia cookei*. Endangered species regulations in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations which pertain to Endangered and Threatened species of plants are found at § 17.61-17.63 (42 FR 32373-32381).

With respect to this plant, all pertinent prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR Part 17.61 would apply. These prohibitions, in general, make it illegal for any person subject to the jurisdiction of the United States to import or export Endangered plants; deliver, receive, carry, transport, or ship them in interstate commerce in the course of a commercial activity; or to sell or offer them for sale in interstate or foreign commerce.

Section 10 of the Act and the regulations referred to above provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Effect Internationally

In addition to the protection provided by the Act, the Service will review this plant to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix to that Convention or whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which significantly affects the quality of the human environment within the meaning of Section 102(2)(C)

of the National Environmental Policy Act of 1969.

Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulation [to determine a species to be Endangered or Threatened] is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Kokia cookei is presently known only from a single specimen in cultivation and tissue culture maintained in a laboratory. Because it has been extirpated from its natural range, it is not prudent at this time to designate an area of Critical Habitat for this species. Critical Habitat may be determined at a future date in connection with eventual efforts to re-introduce the species on Molokai.

The primary author of this rule is Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235-1975).

Regulation Promulgation

Accordingly, § 17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order, by family, genus, and species, the following plant:

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Malvaceae—Mallow family:						
<i>Kokia cookei</i>	Cooke's kokio	U.S.A. (HI)	Entire	E	70	NA

Dated: October 23, 1979.
 Robert S. Cook,
 Deputy Director, Fish and Wildlife Service.

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